9. Evidence (§ 539½ (2)*)—Experts—Qualifications.—Street car motorman, with many years of experience, was qualified to speak as an expert as to whether it was possible for him to have stopped his car in time to have prevented a collision.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 777; 17 Va.-W. Va. Enc. Dig. 403.]

10. Appeal and Error (§ 1050 (1)*)—Harmless Error—Matters Already in Evidence.—Where plaintiff had already testified in detail to reasons why he could not stop his car to avoid collision, admission of his statement as to his opinion whether he could have stopped the car in time to prevent the accident was not prejudicial.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 582.]

11. Trial (§ 46 (2)*)—Reception of Evidence—Necessity of Showing Materiality.—Refusal to permit questions to be propounded to witnesses is not error, where it is not shown by avowal of counsel or otherwise that the answers sought to be elicited were material.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 586.]

12. Negligence (§ 141 (12)*)—Federal Employers' Liability Act—Effect of Contributory Negligence.—In action under federal Employers' Liability Act (U. S. Comp. St. §§ 8657-8665), for injuries in collision to street car motorman, instruction that, if plaintiff was guilty of contributory negligence his damages should be diminished in proportion to the amount of negligence attributable to him was correct.

Error to Circuit Court, Alexandria County.

Action by Arthur C. Warner against the Washington & Old Dominion Railway. Judgment on verdict for plaintiff, and defendant brings error. Affirmed.

R. H. Yeatman and *W. J. Lambert*, both of Washington, D C., and *C. E. Nicol*, of Alexandria, for plaintiff in error.

Crandall Mackey, of Washington, D. C for defendant in error.

SCOTT *v.* DOUGHTY.

Jan. 16, 1919.

[77 S. E. 802.]

1. Navigable Waters (§ 36 (3)*)—Title to Land—"Low-Water Mark."—The term "low-water mark," within Code 1904, § 1339, providing that title to land on bays, rivers, creeks, and shores of seas shall extend to "low-water mark," means ordinary low water, not

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

spring tide or neap tide, but normal, natural, usual, customary, or ordinary low water, uninfluenced by special seasons, winds, or other circumstances.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Low-Water Mark. For other cases, see 10 Va.-W. Va. Enc. Dig. 342-4.]

2. Statutes (§ 188*)—Construction—Ordinary Meaning.—In the construction of statutes, ordinary words are to be given their plain, ordinary meaning, unless a different intent is manifested.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 767.]

3. Ejectment (§ 9 (3)*)—Right to Recover—Strength of Own Title.—As a rule, plaintiff in ejectment must recover, if at all, of his own title, and not upon weakness of that of defendant.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 876.]

4. Appeal and Error (§ 1099 (3)*)—Subsequent Appeal—Law of Case.—Holding on former appeal that plaintiff did not have title by adverse possession was conclusive on subsequent appeal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 651.]

5. Appeal and Error (§ 1195 (3)*)—Subsequent Trial—Law of Case.—In ejectment action involving adjoining owners' dispute as to title to marshy land, holding on former appeal as to rights of parties, where gut separating highland from marsh ebbed at ordinary low water, was law of case in subsequent trial.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 651.]

6 Appeal and Error (§ 999 (1)*)—Review—Jury Finding.—Finding of jury cannot be disturbed.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620; 17 Va.-W. Va. Enc. Dig. 69.]

7. Trial (§ 28 (2)*)—Jury—View of Premises—Discretion.—In action involving title to tide marsh land, court's refusal to permit jury to view land, on ground that it could not ascertain ordinary low-water mark on one view, and that object of view was to supply evidence rather than apprehend it, was not abuse of discretion.

[Ed. Note.—For other cases, see 9 Va.-W. Va. Enc. Dig. 66.]

Error to Circuit Court, Northampton County.

Action by Willietta Doughty against Marion Scott. Judgment for plaintiff, and defendant brings error. Affirmed.

J. E. Heath, of Norfolk, for plaintiff in error.

John E. Nottingham, Jr., of Franktown, and *Benj. T. Gunter,* of Accomack, for defendant in error.

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.